

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Universal Service Reform)	WT Docket No. 10-208
)	
Mobility Fund)	



REPLY COMMENTS

Pursuant to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding on October 14, 2010,¹ the American Cable Association ("ACA"),² by their

¹ *In the Matter of Universal Service Reform, Mobility Fund*, Notice of Proposed Rulemaking, WT Docket No. 10-208 (rel. Oct. 14, 2010). ("Mobility Fund NPRM" or "NPRM")

² ACA represents nearly 900 small and medium-sized cable companies serving smaller markets and rural areas throughout the United States. ACA's membership encompasses a wide variety of businesses – family-owned companies serving small towns and villages, multiple system operators serving predominantly rural markets in several states, and hundreds of companies in between. Together, these companies serve more than 7.6 million households and businesses. In regard to universal service funding, ACA's members have an intense interest. The members include:

- Cable operators who provide high speed broadband service in rural areas who do not draw from the fund;
- Cable operators who provide high speed broadband and VOIP services in rural areas and contribute to the fund but do not draw from the fund;
- Cable operators who provide high speed broadband and VoIP services in metropolitan non-high cost areas who contribute but do not draw from the fund;
- Incumbent telephone operators in rural areas who also provide video

attorneys, hereby files brief reply comments in response to the Commission's proposal to establish a new Mobility Fund to "significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing."³

I. Introduction

The Mobility Fund is one element in the overall reform of universal service funding proposed in the National Broadband Plan, which sought to establish this particular support mechanism "to provide one-time support for deployment of 3G networks."⁴ ACA has filed extensive comments with the Commission supporting reform of the current universal service funding mechanisms, and it has provided the Commission with a framework under which this reform should be pursued. ACA is filing these comments because the Mobility Fund proposal is part of this new paradigm and will serve as a model for other reform. Specifically, because the Mobility Fund as proposed by the Commission seeks to achieve a demonstrated need, is limited in scope and duration, and will distribute funding through competitive bidding, ACA believes it can establish a valuable precedent for how the Commission should undertake reform. As such, ACA favors its creation even though it has at least several weakness: it is not technology-

service and high speed broadband services and currently draw from the fund as eligible telecommunication carriers;

- Competitive telephone operators who also provide video service and high speed broadband service and currently draw from the fund as competitive eligible telecommunications carriers, both for wireline and wireless services.

³ *Mobility Fund NPRM*, ¶1.

⁴ *Connecting America: The National Broadband Plan*, GN Docket No. 09-51 (Mar. 16, 2009) at 146. ("National Broadband Plan")

neutral, does not directly support broadband deployment, and may not completely solve the problem of wireless access in remote areas.⁵ As set forth by the Commission in the *NPRM* and as discussed herein, it is the type of targeted funding mechanism that will increase the value and accountability of universal service funding, albeit in a limited manner.

A. The Commission Should Establish the Mobility Fund for the Limited Objective of Providing One-Time Capital Funding for 3G Infrastructure in Unserved Areas.

The National Broadband Plan proposes a complete and much-needed overhaul of the universal service program, and ACA supports this effort. As ACA has indicated in prior comments, the current program suffers from an array of problems, including that it is inefficient and not competitively and technology-neutral.⁶ Over the past year, the Commission has begun to implement the reforms recommended in the National Broadband Plan, and the proposed Mobility Fund is just one element in that effort. It seeks only to provide “targeted, one-time support for the deployment of 3G infrastructure...without increasing the size of the USF.”⁷ Thus, it should not be viewed as an expansive new fund to support deployment of wireless networks and operations in unserved or underserved areas. If that were the proposal, ACA would oppose its creation since the fund would replicate the many concerns with the current universal support

⁵ See e.g. Comments of General Communication, Inc., *In the Matter of Universal Service Report Mobility Fund*, WT Docket No. 10-208, filed Dec. 16, 2010, which highlight the need to build new or additional middle-mile infrastructure to accompany any construction of last-mile wireless facilities. (“GCI Comments”)

⁶ See e.g. Comments of American Cable Association, *In the Matter of the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Dockets Nos. 09-47, 09-51 and 09-137, Dec. 7, 2009.

⁷ *Mobility Fund NPRM*, ¶10.

mechanisms. Rather, as proposed, the Mobility Fund has a well-defined goal – provide capital grants to deploy 3G infrastructure in unserved areas -- and limits funding to a maximum of \$300 million – which largely comes from support relinquished by Verizon Wireless and Sprint Nextel. If the Commission finds after award of these funds that the objective has not been achieved, it can issue a new proposal and seek comment. As for the achievement of other public interests objectives requiring universal service support, *e.g.* support for continuing operations in unserved areas, the Commission should rely on the proposed Connect America Fund, which is intended to be the primary funding source to support universal broadband deployment and which is intended to be competitively and technology-neutral.⁸

B. The Mobility Fund Should be Used to Build Infrastructure in Areas that are Truly Unserved.

In the *Mobility Fund NPRM*, the Commission proposes that funding be awarded to unserved areas, and it then delves into defining this term. For instance, it proposes potential methodologies to make the determination that an area (census block) is unserved, including assessing whether the “geometric center of the block – referred to as the centroid – is [not] covered by such mobile services” or 50 percent of the block is not covered.⁹ It also recognizes that even in areas without 3G coverage, there may be access to “other supported services using non-mobile wireless technologies” and thus there may

⁸ ACA has proposed that smaller telecommunications providers that currently receive high-cost funding have a sufficient transition before being required to move to the Connect America Fund. Access to funding from the Mobility Fund to construct 3G infrastructure should not be viewed as a substitute for such a transition.

⁹ *Mobility Fund NPRM*, ¶22.

no need for support from the Mobility Fund.¹⁰ The Commission further notes that because the mobile sector is so dynamic,¹¹ it proposes to determine an area is unserved only after receiving and reviewing the most recent data available.

ACA appreciates the Commission's diligence in seeking to ensure that areas truly need support from the new fund. Limiting access to only areas where 3G service will not be constructed by the private sector is essential, and any methodology adopted by the Commission should adhere to this principal. Even with the level of scrutiny proposed by the Commission, ACA, however, remains concerned that funding not go to areas where there is a potential in the near future for wireless deployments by private sector entities without government support.¹² It thus agrees with the comments of General Communication, Inc. that no funding should be awarded "in areas in which the applicant or another provider would have built out 3G without Mobility Fund support"¹³ and that applicants should certify to the Commission that they "had no previous plans to deploy 3G or better services within five years in the area for which they are seeking funding."¹⁴

¹⁰ *Id.*, ¶23.

¹¹ *Id.*, ¶24.

¹² This concern also is shared by other commenters, including AT&T. *See* Comments of AT&T, Inc., *In the Matter of Universal Service Report Mobility Fund*, WT Docket No. 10-208, filed Dec. 16, 2010, at 5, which state "that it would be an inefficient use of federal universal service dollars to pay a carrier to provide a service when that carrier likely would have provided that same service...in a year or so without any Mobility Fund support" and that the Commission should rank "bids for truly unserved areas ahead of bids proposing to upgrade existing networks to 3G or better in 'underserved' areas."

¹³ GCI Comments at iii.

¹⁴ *Id.* at 9. ACA agrees with General Communication, Inc. that Tribal Lands in general make excellent candidates for the Mobility Fund. At the same time, any funding provided to


II. Conclusion

In conclusion, ACA applauds the Commission's efforts to achieve a new universal service paradigm, which seeks to maximize the effectiveness and efficiency of the fund. As proposed, the Mobility Fund fits within that new paradigm. It is well-focused and limited in scope and size. Consistent with the comments herein, ACA favors its adoption and implementation.

Respectfully submitted,

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these areas through the Mobility Fund should not become a substitute for or otherwise reduce current High-Cost funding support going to Tribal Lands.